BILL NO. G-93-08-05

GENERAL ORDINANCE NO. Withdrawn

AN ORDINANCE AMENDING TITLE 15, CHAPTER 156: "SWIMMING POOLS AND BEACHES," SECTIONS 156.01, 156.05(A) AND 156.11 OF THE CITY OF FORT WAYNE CODE OF LAWS,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That Sections 156.01, 156.05(A) and 156.11 of Chapter 156, Title 15 of the City of Fort Wayne, Indiana, Code of Ordinances be amended as follows:

Section 156.01 of Chapter 156, Title 15 of the City of Fort Wayne, Indiana, Code of Ordinances be amended as follows:

§ 156.01 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

POOL. Any structure, basin, chamber or tank containing a body of water over 24 inches in depth of water, used for swimming, diving, therapeutic or recreational bathing, and which is used or intended to be used as a pool, hot tub or spa in connection with a family dwelling and is available to the householder and their private guests.

Section 2. 156.05 (A) of Chapter 156, Title 15 of the City of Fort Wayne, Indiana, Code of Ordinances be amended as follows:

§ 156.05 FENCES REQUIRED; GATES OR DOORS TO BE SELF-LATCHING.

(A) Every pool shall be completely surrounded by a fence or wall not less than five (5) feet in height, if erected on the grade and not less than thirty (30) inches if erected on the deck of an above ground pool; which fence or wall shall be so constructed as not to have openings, holes or gaps larger than four (4) inches in any dimension, except for doors and gates; and if a picket, board or other like fence is erected or maintained, the distance between members thereof shall not exceed four (4) inches. A dwelling house or accessory may be used as part of such enclosure.

Section 156.11 of Chapter 156, Title 15 of the City of Fort Wayne, Indiana, Code of Ordinances be amended as follows:

§ 156.11 BUILDING COMMISSIONER TO ENFORCE PROVISIONS.

It shall be the duty of the Building Commissioner to enforce the provisions of this subchapter. They may enter the premises for the purpose of determining compliance therewith.

Section 2. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor and due legal publication thereof.

Council Member

APPROVED AS TO FORM
AND LEGALITY

J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Ravine, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____ M., E.S.T.

DATED: 8-10-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. PASSED LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES				
BRADBURY				
EDMONDS				
GiaQUINTA				
HENRY				
LONG				
LUNSEY				
RAVINE				
SCHMIDT				
TALARICO				

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. _____ on the _____ day of _____, 19____

ATTEST: (SEAL)

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____, M., E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR

THE CITY OF FORT WAYNE

FORT WAYNE - A WORLD - CLASS COMMUNITY

Paul Helmke
Mayor

MEMORANDUM

LAW DEPARTMENT

TO: MEMBERS OF COMMON COUNCIL

FROM: LAW DEPARTMENT/BOARD OF HEALTH

G-93-08-05

DATE: August 10, 1993

SUBJECT: **AMENDMENTS TO SWIMMING POOL ORDINANCE**

The amendments are proposed for the following reasons:

1. To clarify the definition of "Pool" to include hot tubs or spas.

2. To increase the fencing requirement from four feet to five feet which is in compliance with the Indiana Administrative Code (a copy which is attached).

3. To clarify the fencing requirements for an above ground pool.

4. To clarify that the City does require a fence and does not accept a safety pool cover in lieu of a fence.

   The Indiana Administrative Code sets forth a safety pool cover as one of the acceptable means to restrict access to a residential pool. This has become an issue in the Windmere Addition where two homes have swimming pools with the safety pool covers. Apparently, the covenants for the Windmere Addition prohibit fences.

5. To clarify who should enforce the provisions of this subchapter. The Board of Health maintains that the enforcement of this subchapter more appropriately falls within the jurisdiction of the Building Commissioner.

DIGEST SHEET

TITLE OF ORDINANCE GENERAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE LAW DEPARTMENT

SYNOPSIS OF ORDINANCE 1. CHANGES THE DEFINITION OF POOL TO INCLUDE HOT TUBS OR SPAS;

2. INCREASES THE FENCING DIMENSIONS TO 5 FEET;

3. CLARIFIES FENCING REQUIREMENTS FOR ABOVE GROUND POOLS;

4. CLARIFIES THE CITY DOES NOT ACCEPT SAFETY POOL COVERS;

5. CLARIFIES THE BOARD OF HEALTH/BUILDING COMMISSIONER ENFORCES THE PROVISIONS OF THE ORDINANCE.

EFFECT OF PASSAGE CHANGES CAN BE MADE.

EFFECT OF NON-PASSAGE CHANGES CANNOT BE MADE.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)

ASSIGNED TO COMMITTEE (PRESIDENT)

HELMKE, BEAMS, BOYER & WAGNER

COUNSELORS AT LAW
300 METRO BUILDING
HARRISON AT BERRY STREET
FORT WAYNE, INDIANA 46802-2216
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WALTER P. HELMKE
R. DAVID BOYER
ROBERT A. WAGNER
J. TIMOTHY MCCAULAY
DANIEL J. BORGMANN

TRINA GLUSENKAMP GOULD

WALTER E. HELMKE
(1901-1976)

GLEN J. BEAMS
JOHN G. REIBER
OF COUNSEL

August 24, 1993

Sandra Kennedy
Clerk, City of Fort Wayne
1st Floor, City-County Building
One Main Street
Fort Wayne, Indiana 46802

Re: G-93-08-05

Dear Ms. Kennedy:

On behalf of the City of Fort Wayne and the Fort Wayne-Allen County Board of Public Health, we would like to have the above-referenced bill withdrawn from City Council's consideration. We may be submitting a different bill in the future, but it will be different in both form and substance. Thank you for your cooperation in this regard.

Very truly yours,

HELMKE, BEAMS, BOYER & WAGNER

Daniel J. Borgmann

Trina Glusenkamp Gould

DJB/alc

BILL NO. G-93-08-05

REPORT OF THE COMMITTEE ON
REGULATIONS

DAVID C. LONG & REBECCA J. RAVINE - CO-CHAIRPERSONS
LUNSEY, SCHMIDT

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) - Amending Title 15, CHAPTER 156: "SWIMMING POOLS AND BEACHES" SECTIONS 156.01, 156.05 (A) AND 156.11 OF THE CITY OF FORT WAYNE CODE OF LAWS

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC

DATED: 8-24-93

Sandra E. Kennedy
City Clerk